

HOUSE BILL NO. HB0103

Illegal immigration.

Sponsored by: Representative(s) Illoway, Petersen and
Zwonitzer, Dn. and Senator(s) Anderson, J.,
Cooper and Martin

A BILL

for

1 AN ACT relating to illegal immigration; establishing an
2 offense for transportation or concealment of illegal
3 aliens; requiring certain employers to verify the
4 citizenship status of employees; establishing an offense
5 for hiring unauthorized aliens or failing to verify the
6 citizenship status of employees; providing for penalties;
7 requiring state agencies and political subdivisions to
8 verify the citizenship status of applicants for certain
9 public benefits; requiring a report; authorizing the
10 attorney general to negotiate a memorandum of understanding
11 regarding immigration with the appropriate federal agency;
12 establishing rules for the communication of information
13 related to immigration status; requiring the determination
14 of the immigration status of certain prisoners; requiring
15 certain documentation for the issuance of a driver's

1 license or identification card; requiring rulemaking; and
2 providing for an effective date.

3

4 *Be It Enacted by the Legislature of the State of Wyoming:*

5

6 **Section 1.** W.S. 6-5-214 and 9-16-101 through 9-16-105
7 are created to read:

8

9 **6-5-214. Transportation or concealment of illegal**
10 **aliens.**

11

12 (a) No person shall transport, move or attempt to
13 transport in the state of Wyoming any alien knowing or in
14 reckless disregard of the fact that the alien has come to,
15 entered or remained in the United States in violation of
16 law, in furtherance of the illegal presence of the alien in
17 the United States.

18

19 (b) No person shall conceal, harbor or shelter from
20 detection any alien in any place within the state of
21 Wyoming, including any building or means of transportation,
22 knowing or in reckless disregard of the fact that the alien
23 has come to, entered or remained in the United States in
24 violation of law.

25

1 (c) Any person violating this section shall, upon
2 conviction, be guilty of a felony punishable by imprisonment
3 for not less than one (1) year nor more than two (2) years,
4 a fine of not less than one thousand dollars (\$1,000.00) nor
5 more than five thousand dollars (\$5,000.00), or both.

6

7

CHAPTER 16

8

ILLEGAL IMMIGRATION

9

10 **9-16-101. Definitions.**

11

12 (a) As used in this chapter:

13

14 (i) "Public employer" means every department,
15 agency or other instrumentality of the state or a political
16 subdivision of the state;

17

18 (ii) "Status verification system" means an
19 electronic system operated by the federal government,
20 through which an employer or an authorized official of an
21 agency of the state of Wyoming or of a political subdivision
22 of Wyoming may make an inquiry, by exercise of authority
23 delegated pursuant to 8 U.S.C. § 1373, to verify or
24 ascertain the citizenship or immigration status of any
25 individual within the jurisdiction of the agency for any
26 purpose authorized by W.S. 9-16-102. "Status verification
27 system" includes the electronic verification of work

1 authorization program of the Illegal Immigration Reform and
2 Immigration Responsibility Act of 1996, P.L. 104-208,
3 Division C, Section 403(a); 8 U.S.C. § 1324a, and operated
4 by the United States department of homeland security, known
5 as the basic pilot program, or any equivalent federal work
6 authorization program designated by the United States
7 department of homeland security or any other federal agency
8 authorized to verify the work authorization status of newly
9 hired employees, pursuant to the Immigration Reform and
10 Control Act of 1986, P.L. 99-603;

11

12 (iii) "Subcontractor" includes a subcontractor,
13 contract employee, staffing agency or any contractor
14 regardless of its tier;

15

16 (iv) "Unauthorized alien" means an alien as
17 defined in 8 U.S.C. § 1324a(h)(3).

18

19 **9-16-102. Status verification system.**

20

21 (a) Subject to subsection (b) of this section, each
22 employer in this state shall register and participate in the
23 status verification system to verify the work authorization
24 status of all new employees.

25

26 (b) The requirements of subsection (a) of this section
27 must be satisfied:

1

2 (i) Not more than one (1) year after the
3 effective date of this act for:

4

5 (A) Public employers; and

6

7 (B) Employers who contract with public
8 employers pursuant to subsection (e) of this section.

9

10 (ii) Not more than two (2) years after the
11 effective date of this act for employers who employ two
12 hundred fifty (250) or more individuals in this state; and

13

14 (iii) Not more than three (3) years after the
15 effective date of this act for employers who employ one (1)
16 or more individuals in this state.

17

18 (c) Nothing in this section shall be construed as
19 preventing an employer that is not immediately required to
20 comply with the provisions of subsections (a) and (b) of
21 this section from voluntarily participating in the status
22 verification system.

23

24 (d) No public employer shall enter into a contract for
25 the physical performance of services within this state
26 unless the contractor registers and participates in the

1 status verification system to verify the work authorization
2 status of all new employees.

3

4 (e) No contractor or subcontractor who enters a
5 contract with a public employer shall enter into such a
6 contract or subcontract in connection with the physical
7 performance of services within this state unless the
8 contractor or subcontractor registers and participates in
9 the status verification system to verify information of all
10 new employees.

11

12 (f) The provisions of this section shall be enforced
13 without regard to race or national origin.

14

15 (g) The department of employment shall prescribe forms
16 and promulgate rules and regulations necessary for the
17 administration of this section.

18

19 **9-16-103. Penalty.**

20

21 (a) Any person who knowingly hires, recruits or refers
22 for a fee an unauthorized alien shall upon conviction be
23 subject to a fine for each unauthorized alien of not less
24 than:

25

1 (i) Three hundred seventy-five dollars (\$375.00)
2 and not more than three thousand two hundred dollars
3 (\$3,200.00) for the first offense;

4
5 (ii) Three thousand two hundred dollars
6 (\$3,200.00) and not more than six thousand five hundred
7 dollars (\$6,500.00) for the second offense; and

8
9 (iii) Four thousand three hundred dollars
10 (\$4,300.00) and not more than sixteen thousand dollars
11 (\$16,000.00) for the third or subsequent offense.

12
13 (b) Any person who fails to comply with employment
14 verification as required by W.S. 9-16-102 shall upon
15 conviction be subject to a fine of not less than one hundred
16 ten dollars (\$110.00) and not more than one thousand one
17 hundred dollars (\$1,100.00) for each person with respect to
18 whom such violation occurred for the first offense.

19
20 **9-16-104. Public benefits.**

21
22 (a) Except as provided by subsection (c) of this
23 section or where exempted by federal law, each agency or
24 political subdivision of this state shall verify the lawful
25 presence in the United States of any natural person fourteen
26 (14) years of age or older who has applied for state or
27 local benefits as defined in 8 U.S.C. § 1621(c), or for

1 federal public benefits as defined in 8 U.S.C. § 1611(c)
2 that are administered by an agency or political subdivision
3 of this state.

4

5 (b) The provisions of this section shall be enforced
6 without regard to race, religion, gender, ethnicity or
7 national origin.

8

9 (c) Verification of lawful presence under the
10 provisions of this section shall not be required for:

11

12 (i) Any purpose if lawful presence in the United
13 States is not restricted by law, ordinance or regulation;

14

15 (ii) Assistance for health care items and
16 services that are necessary for the treatment of an
17 emergency medical condition, as defined in 42 U.S.C. §
18 1396b(v)(3) if the items or services are not related to an
19 organ transplant procedure;

20

21 (iii) Short term, noncash, in-kind emergency
22 disaster relief;

23

24 (iv) Public health assistance for immunizations
25 with respect to diseases and for testing and treatment of
26 symptoms of communicable diseases whether or not such
27 symptoms are caused by a communicable disease; or

1

2 (v) Programs, services or assistance such as soup
3 kitchens, crisis counseling and intervention and short-term
4 shelters which:

5

6 (A) Deliver in-kind services at the
7 community level including through public or private
8 nonprofit agencies;

9

10 (B) Do not condition the provision of
11 assistance, amount of assistance or cost of assistance on
12 the income or resources of the recipient; and

13

14 (C) Are necessary for the protection of life
15 or safety.

16

17 (d) For verification of the lawful presence of an
18 applicant in the United States, the agency or political
19 subdivision required to make such verification shall provide
20 notary public services at no cost to the applicant and
21 require that the applicant execute an affidavit under
22 penalty of perjury that:

23

24 (i) He is a United States citizen; or

25

1 (ii) He is a qualified alien under the federal
2 Immigration and Nationality Act, and is lawfully present in
3 the United States.

4
5 (e) For any applicant who has executed an affidavit
6 pursuant to paragraph (d)(ii) of this section, eligibility
7 for benefits shall be determined through the systematic
8 alien verification of entitlement program operated by the
9 United States department of homeland security or a successor
10 program designated by the United States department of
11 homeland security. Until such eligibility verification is
12 made, an affidavit executed pursuant to subsection (d) of
13 this section may be presumed to be proof of lawful presence
14 in the United States for the purposes of this section.

15
16 (f) Any person who knowingly makes a false or
17 fraudulent statement of representation in an affidavit
18 executed pursuant to subsection (d) of this section shall be
19 subject to criminal penalties under W.S. 6-5-303(a). If the
20 affidavit constitutes a false claim of United States
21 citizenship under 18 U.S.C. § 911, a complaint shall be
22 filed by the agency or political subdivision which required
23 the affidavit with the United States attorney for the
24 district in which the affidavit was executed.

25
26 (g) An agency or political subdivision may adopt
27 variations to the requirements of this section if the agency

1 or political subdivision can demonstrate that the variation
2 improves the efficiency of or reduces any delay in the
3 verification process or to provide for the adjudication of
4 unique individual circumstances where the verification
5 procedures in this section would impose a hardship on a
6 legal resident of this state.

7

8 (h) No agency or political subdivision of this state
9 shall provide any state, local or federal benefit as defined
10 in 8 U.S.C. § 1611 or 1621 in violation of the provisions of
11 this section.

12

13 (j) The attorney general, the department of health,
14 the department of workforce services, the department of
15 employment and the department of family services shall each
16 provide an annual report to the governor, the speaker of the
17 house and the president of the senate with respect to its
18 compliance with the provisions of this section. Each agency
19 or political subdivision of this state subject to the
20 provisions of this section shall monitor the systematic
21 alien verification of entitlement program for errors and
22 significant delays and report to the governor, the speaker
23 of the house and the president of the senate any
24 recommendations which would help ensure that the systematic
25 alien verification of entitlement program is not erroneously
26 denying benefits to legal residents of Wyoming. Any error
27 discovered pursuant to this subsection shall also be

1 reported to the United States department of homeland
2 security.

3

4 **9-16-105. Memorandum of understanding; communication**
5 **of immigration status.**

6

7 (a) The attorney general is authorized and directed to
8 negotiate the terms of a memorandum of understanding between
9 the state of Wyoming and the United States department of
10 justice or the United States department of homeland
11 security, as provided by 8 U.S.C. § 1357(g), concerning the
12 enforcement of federal immigration and custom laws,
13 detentions and removals and investigations in the state of
14 Wyoming.

15

16 (b) The memorandum of understanding negotiated
17 pursuant to subsection (a) of this section shall be signed
18 on behalf of this state by the attorney general and the
19 governor or as otherwise required by the appropriate federal
20 agency.

21

22 (c) No local government, whether acting through its
23 governing body or by an initiative, referendum or any other
24 process, shall enact any ordinance or policy that limits or
25 prohibits a law enforcement officer, local official or local
26 government employee from communicating or cooperating with

1 federal officials with regard to the immigration status of
2 any person within this state.

3

4 (d) Notwithstanding any other provision of law, no
5 government entity or official within the state of Wyoming
6 may prohibit or in any way restrict any government entity or
7 official from sending to, or receiving from, the United
8 States department of homeland security information regarding
9 the citizenship or immigration status, lawful or unlawful,
10 of any individual.

11

12 (e) Notwithstanding any other provision of law, no
13 person or agency may prohibit or in any way restrict a
14 public employee from doing any of the following with respect
15 to information regarding the immigration status, lawful or
16 unlawful, of any individual:

17

18 (i) Sending information related to immigration
19 status to, or requesting or receiving such information from
20 the United States department of homeland security;

21

22 (ii) Maintaining information related to
23 immigration status; or

24

25 (iii) Exchanging such information with any other
26 federal, state or local government entity.

27

1 (f) The provisions of this section shall allow for a
2 private right of action by any natural or legal person
3 lawfully domiciled in this state to file for a writ of
4 mandamus to compel any noncooperating local state
5 governmental agency to comply with such reporting laws.

6
7 **Section 2.** W.S. 7-13-104, 31-7-111 by creating new
8 subsections (g) through (k) and 31-8-101 by creating new
9 subsections (c) through (f) are amended to read:

10
11 **7-13-104. Record of prisoners.**

12
13 (a) The department of corrections shall keep a
14 complete record of the background and current status of all
15 prisoners sentenced and confined in any state penal
16 institution. The administrator of the institution where a
17 prisoner is incarcerated, the division of criminal
18 investigation, and the clerk of court and sheriff of the
19 county from which the prisoner is committed shall, at the
20 request of the department or the board of parole, furnish
21 any information in their possession relating to the
22 prisoner or the offense committed.

23
24 (b) When a person charged with a felony or with
25 driving or having control of a vehicle while under the

1 influence pursuant to W.S. 31-5-233 is confined, for any
2 period, in a county jail or a state penal institution, a
3 reasonable effort shall be made to determine the citizenship
4 status of the person. If verification of lawful status
5 cannot be made from documents in the possession of the
6 prisoner, verification shall be made within forty-eight (48)
7 hours through a query to the law enforcement support center
8 of the United States department of homeland security or
9 other office or agency designated for that purpose by the
10 United States department of homeland security. If the lawful
11 immigration status of a prisoner cannot be verified, the
12 administrator of the institution or other officer shall
13 notify the United States department of homeland security.

14

15 **31-7-111. Application for license or permit**
16 **generally.**

17

18 (g) Except as otherwise provided in subsection (h) of
19 this section, no person shall be issued a driver's license
20 unless the person is a United States citizen, national or
21 legal permanent resident alien.

22

23 (h) The provisions of subsection (g) of this section
24 shall not apply if an applicant presents, in person, valid
25 documentary evidence of:

26

1 (i) Unexpired immigrant or nonimmigrant visa
2 status for admission into the United States;

3
4 (ii) A pending or approved application for asylum
5 in the United States;

6
7 (iii) Admission into the United States in refugee
8 status;

9
10 (iv) A pending or approved application for
11 temporary protected status in the United States;

12
13 (v) Approved deferred action status; or

14
15 (vi) A pending application for adjustment of
16 status to legal permanent residence status or conditional
17 resident status.

18
19 (j) If an applicant provides evidence under subsection
20 (h) of this section, a license issued pursuant to this
21 chapter shall be valid only during the period of time of the
22 authorized stay of the applicant in the United States or if
23 there is no definite end to the period of authorized stay, a
24 period of one (1) year. A license issued pursuant to this
25 subsection:

26

1 (i) Shall clearly indicate that it is temporary
2 and state the date on which it will expire; and

3
4 (ii) May be renewed only upon presentation of
5 valid documentary evidence that the status by which the
6 applicant qualified for the identification is still in
7 effect or has been extended by the appropriate federal
8 agency.

9
10 (k) When an application is made for renewal or
11 replacement of a driver's license, the license shall be
12 presumed to have been issued in accordance with subsection
13 (h) of this section provided that, at the time the
14 application is made, the license has not expired or been
15 cancelled, suspended or revoked. If the division is notified
16 by a local, state or federal government agency of a
17 reasonable suspicion that the individual seeking renewal or
18 replacement is present in the United States in violation of
19 law, the provisions of subsection (h) of this section apply
20 to the renewal or replacement of the license.

21
22 **31-8-101. Issuance to residents by department;**
23 **restrictions.**

24
25 (c) Except as otherwise provided in subsection (d) of
26 this section, no person shall be issued an identification

1 card unless the person is a United States citizen, national
2 or legal permanent resident alien.

3
4 (d) The provisions of subsection (c) of this section
5 shall not apply if an applicant presents, in person, valid
6 documentary evidence of:

7
8 (i) Unexpired immigrant or nonimmigrant visa
9 status for admission into the United States;

10
11 (ii) A pending or approved application for asylum
12 in the United States;

13
14 (iii) Admission into the United States in refugee
15 status;

16
17 (iv) A pending or approved application for
18 temporary protected status in the United States;

19
20 (v) Approved deferred action status; or

21
22 (vi) A pending application for adjustment of
23 status to legal permanent residence status or conditional
24 resident status.

25
26 (e) If an applicant provides evidence under subsection
27 (d) of this section, an identification card issued pursuant

1 to this chapter shall be valid only during the period of
2 time of the authorized stay of the applicant in the United
3 States or if there is no definite end to the period of
4 authorized stay, a period of one (1) year. An identification
5 card issued pursuant to this subsection:

6
7 (i) Shall clearly indicate that it is temporary
8 and state the date on which it will expire; and

9
10 (ii) May be renewed only upon presentation of
11 valid documentary evidence that the status by which the
12 applicant qualified for the identification is still in
13 effect or has been extended by the appropriate federal
14 agency.

15
16 (f) When an application is made for renewal or
17 replacement of an identification card, the card shall be
18 presumed to have been issued in accordance with subsection
19 (d) of this section provided that, at the time the
20 application is made, the card has not expired or been
21 cancelled, suspended or revoked. If the division is notified
22 by a local, state or federal government agency of a
23 reasonable suspicion that the individual seeking renewal or
24 replacement is present in the United States in violation of
25 law, the provisions of subsection (d) of this section apply
26 to the renewal or replacement of the card.

27

1 **Section 3.** This act is effective July 1, 2010.

2

3

(END)